



SUPREME COURT OF THE UNITED STATES

OPINION OF THE COURT

No. 201.

FEDERICO AMADSO FOR THE USE OF AND JOINTLY
WITH THE PASTOR MARQUEZ COMPANY, IN MOUTA-
TION, PLAINTIFFS IN ERROR,

THE ROYAL INSURANCE COMPANY,

IN ERROR TO THE DISTRICT COURT OF THE UNITED STATES FOR
THE DISTRICT OF PORTO RICO.

VERDAD MARZO 15, 1906.

(19,666.)

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SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1905.

No. 201.

FEDERICO AMADEO FOR THE USE OF AND JOINTLY
WITH THE PASTOR MARQUEZ COMPANY, IN LIQUIDA-
TION, PLAINTIFFS IN ERROR,

vs.

THE ROYAL INSURANCE COMPANY.

IN ERROR TO THE DISTRICT COURT OF THE UNITED STATES FOR
THE DISTRICT OF PORTO RICO.

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1 At a regular term of the district court of the United States within and for the district of Porto Rico, begun and held at the city of Ponce in said district on the second Monday in January being also the 11th day of that month in the year of our Lord nineteen hundred and four and of the Independence of the United States of America the one hundred and twenty eighth.

Present : The Hon. Wm. H. Holt, judge.

Among the proceedings had were the following, to wit :

FEDERICO AMADEO vs. ROYAL INSURANCE COMPANY.	} No. 144. Dgs., 10,000.	} Consolidated.
and		
FEDERICO AMADEO vs. ROYAL INSURANCE COMPANY.	} No. 145. Dgs., \$30,000.	

Be it remembered that heretofore, to wit ; on the 21st day of April A. D. 1903 came the plaintiff by his attorney and filed in the clerk's office of this court a declaration and a praecipe for a writ of summons in each of the above cases, which said declarations and praecipes are as follows, to wit :

In the United States District Court for the District of Porto Rico.

FEDERICO AMADEO against ROYAL INSURANCE COMPANY OF LIVERPOOL.	}
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Federico Amadeo a citizen and resident of Porto Rico by his attorney Charles M. Boerman complains of The Royal Insurance Company of Liverpool, a corporation organized under and by the laws of the United Kingdom of Great Britain and Ireland, defendant of a plea of trespass on the case on promises : for that whereas the defendant on the 29th of February 1884 made its policy of insurance and delivered the same to the mercantile society styled : Amadeo Hermanos and for the consideration therein expressed, to it paid by said society, promised in the terms of the said policy 2 and the conditions thereto annexed, which said policy and conditions here follow in these words and figures to wit :

This policy of insurance witnesseth that Messrs. Amadeo Hermanos, merchants of Maunabo P. R. hereinafter called the insured, having paid to the undersigned as authorized agents of the Royal Insurance Company, hereinafter called the company the sum of

fifteen pounds for insuring against loss or damage by fire as herein-after mentioned, the property hereinafter described in the sum or several sums following, to wit:

Five hundred pounds sterling on stock of dry goods, hardware and provisions of all sorts, deposited in the building built of timber and covered with shingles, situated in the Calle del Comercio, without number in the town of Manuabo P. R.—6/00. Among said stock the insured keeps generally one puncheon of rum and fifteen gallons of gas petroleum. On same stock 1000 £ more are covered by this company under policy No. 2,152,247.

The company hereby agrees with the insured (but subject to the conditions on the back thereof which are to be taken as part of this policy) that if the property above described or any part thereof shall be destroyed or damaged by fire at any time between the 29th day of February 1884 and four o'clock in the afternoon of the 29th day of February 1885 the company will out of their capital stock and funds make good or pay to the insured the value of the property so destroyed or the amount of such damage thereto to the amount not exceeding in respect of each or any of the several matters above specified the sum set opposite thereto respectively, and not exceeding in the whole the sum of five hundred pounds sterling, and also not exceeding in any case the amount of the insurable interest therein of the insured at the time of the happening of such fire. In witness whereof we, two of the directors of the said company by their authorized agents have hereunto set our hands and have caused the common seal of said company to be hereunto affixed, dated at Porto Rico this 29th day of February in the year of our Lord 1884,

3 and issued there.

R. BROCKBANK,

E. W. RAYNER,

Directors,

By their Attorneys, FEDERSEN WILINK & CO.,

Agents to the Company.

The conditions referred to in this policy are as follows:

1. Any material misdescription of any of the property proposed to be hereby insured or of any building or place in which property to be so insured is contained or any omission to state the existence of any hazardous trade or of any apparatus in or by which heat is produced other than grates in common fire places herein and any misstatement of or omission to state any fact material to be known for estimating the risk whether at the time of affecting the insurance or afterwards, renders this policy void as to the property affected by such misdescription, misstatement or omission respectively.

2. If after the risk has been undertaken by the company anything whereby the risk is increased be done to in or upon property hereby insured or to upon or in any building or place in which in which property hereby insured is contained, or if any property hereby insured is removed from the building or place in which it is herein

described as being contained or if any addition to the risk arise from any other cause whatsoever without in each and every such case the assent or sanction of the company signified by indorsement thereon or if the insured shall refuse or neglect to pay any further premium which may be demanded in consequence of any increase of risk, the insurance as to the property thereby affected ceases immediately therupon to attach, and if by reason of such alteration or addition or from any cause whatever the company or its agents shall desire to terminate the insurance affected by this policy it shall be lawful for the company or its agents so to do by notice to the insured or his representative and to require this policy to be given up for the purpose of being cancelled, provided that in any such case the company shall refund to the insured a rateable proportion of the unexpired time thereof for the — of the premium received for the insurance.

3. This policy does not cover property held in trust or on commission unless expressly described as such, nor china glass looking glasses, jewels glass clocks watches trinkets, medals curiosities manuscripts, prints, paintings, drawings, sculptures, musical mathematical and philosophical instruments, patterns, models and moulds unless specially mentioned in the policy, nor deeds bonds bills of exchange, promissory notes, money security for money, stamps, and books of accounts, nor gun-powder, nor loss or damage by fire happening during the existence of any invasion, foreign enemy, rebellion insurrection, riot civil commotion, military or usurped power or martial law within the country or locality in which the property insured is situated unless proof be made to the satisfaction of the directors that such loss or damage was not occasioned by or connected with but occurred from a cause or causes independent of the existence of such invasion foreign enemy, rebellion, insurrection riot civil commotion, military or usurped power, or martial law. And this policy does not cover loss or damage occasioned by or through any earthquake or hurricane or by or through the spontaneous fermentation or heating of the subject insured, nor goods destroyed or damaged while undergoing any process by which the application of fire heat is necessary, nor loss or damage by explosion except loss or damage to a building or property contained therein caused by explosion of gas in such building not being a building in which gas is manufactured.

4. No insurance proposed to the company is to be considered in force until the premium be actually paid. No receipts for any premiums of insurance shall be valid or available for any purposes whatever except as are printed and issued from the company office and signed by one of the clerks or agents of the office and impressed with the seal of the company, and any condition or proviso contained in, endorsed upon or referred to in any such receipt shall be taken as a part of this policy.

5. This policy ceases to be in force as to any property hereby insured which shall pass from the insured to any other person other-

wise than by will or operation of law unless notice thereof be given to the company and the subsistence of the insurance in favor of such other person be declared by a memorandum endorsed thereon by or in behalf of the company.

5 6. On the happening of any loss or damage by fire to any of the property hereby insured the insured must forthwith give notice in writing thereof to the company and within fifteen days at latest deliver to the company as particular an account as may be reasonably practicable of the several articles or matters damaged or destroyed by fire and also of all other articles and matters insured by this company policy with the estimated value of each of them respectively having regard to their several values at the time of the fire, and also of the nature and amount of the loss or dam-ge occasioned to each or any such articles or matter, and of the interest of the insured therein, and in support thereof give all such vouchers proofs and explanations and other evidence as may be reasonably required by or on behalf of the company together with if required a statutory declaration of the truth of the account, and in default thereof no claim in respect of such loss or dam-ge shall be payable or sustainable unless and until such notice account proof and explanations or evidence respectively shall have been given or produced as aforesaid, and such statutory decelarqtion if required shall have been made.

7. No profit nor advantage of any kind is to be included in any claim for loss or dam-ge under this policy and if the claim be in any respect fraudulent or if any false statutory declaration be made or used in support thereof, or if the fire be occasioned by or through the procurement or with the knowadge or connivance of the insured, all benefit under this policy is forfeited.

8. In case of dam-ge by the removal of property to -scape conflagration this company will contribute thereto in the proportion the insured hereby shall bear to the whole value of such property before removal, but the company shall not be held liable for property stolen.

9. The company may if they think fit at their option reinstate or replace the property damaged or destroyed instead of paying the amount of the loss or dam-ge and may join with any other company or insurers in so doing in cases where the property is also insured el-where.

10. On the happening of any dam-ge by fire to any building or place or property or effects within any building or place in
6 respect of which a claim is or may be made under this policy the company without being deemed wrong-doers may by their authorized officers and servants or others enter into and for a reasonable time remain in possession of such building or place property or effects for a reasonable purpose relating to or in connection with the insurance hereby effected and this policy shall be evidence of leave and license and authority for that purpose.

11. The insured must give notice to the company of any insur-

ance or insurances made elsewhere on the property her-by insured or any part ther-of the particulars of which must be indorsed on the policy and unless such notice be given and endorsement be made the insured will not be entitled to any benefit under this policy.

12th. If at the time of any loss or damage by fire happening to any property hereby insured there be any other subsisting insurance or insurances covering the same property, this company shall not be liable to pay or contribute in respect of such loss or damage more than its ratable proportion of such loss or damage.

13. In all cases where any other subsisting insurance or insurances whether effected by the insured or by any other person on any property her-by insured either exclusively or together with any other property in and subject to the same risk only shall be subject to average, the insurance on such property under this policy shall be subject to average in like manner.

14. If any difference shall at any time arise between the company and the insured or any claimant under this policy as to the amount of any loss or damage by fire and no fraud be alleged, every such difference as and when the same arises shall be referred to the arbitration and decision of two indifferent persons, one to be chosen by the party claiming and the other by the company, or in case of disagreement between them then of an umpire to be chosen by the arbitrators before entering on the reference,—provided that if one of the parties fail to name an arbitrator within ninety days after being call- upon by the other party to do so subsequently to furnish-

ing of the proofs and evidence and other matters as stipulated
7 by the foregoing condition numero 6—then in such case shall
the other party be at liberty to choose both arbitrators who
shall agree upon an umpire before entering upon the evidence
reference—and the cost of the reference shall be in the dis-
cretion of the arbitrators or umpire as the case may be who shall
award by whom and in what manner the same shall be paid, and
the decision of the arbitrators or umpire as the case may be shall
be final and binding on all pa-ties and this condition shall be deemed
and taken to be an agreement to refer as aforesaid. And it is hereby
expressly stipulated and declared that the obtaining of an award
by such arbitrators or umpire as the case may be shall be a condi-
tion precedent to the liability or obligation of the company to pay
or satisfy any claim under this policy for loss or damage in respect
of which any such difference may have arisen and to the enforce-
ment of any such claim.

15. In all cases where this policy is void or ceases to be in force
under any of the foregoing conditions all moneys paid to the com-
pany in respect thereof will be forfeited.

16. The directors of the company shall not be sued nor made per-
sonally responsible for this insurance until the funds of the company
are first exhausted, and the agents shall in no case be responsible
either on account of any legal or any other investigation which they
may in find it necessary to institute for the satisfaction of the com-

pany, nor can their personal property be attached on account of any alleged loss by the insured.

17. If in any case the company shall be unable to reinstate or repair the building because of any provisions in the acts in force for regulating the alignment of streets or the erection of buildings the company shall in every such case only be liable to pay such sum as would be requisite to reinstate or repair such buildings if same could lawfully be reinstated to their former condition.

18. It is hereby declared and agreed that if the property covered by this policy shall at the breaking out of any fire be collectively of greater value than the sum insured thereon, then this company shall pay or make good such a proportion only of the loss or damage as the sum so insured shall bear to the whole value of the said property at the time when such fire shall happen.

— — —
— — —
— — —

The plaintiff avers that the stock insured and the insurance thereon were transferred with the consent and indorsement of the defendant to him on the 19th January 1885.

And plaintiff avers that at the time of the making of the said policy and from thence until the happening of the loss and damage hereinafter mentioned he had an interest in the said property and since said transfer to the amount of the said sum so by the defendant insured thereon as aforesaid.

And the plaintiff further avers that on the 7th of February 1885, the said property was consumed and destroyed by fire, whereby the plaintiff then and there sustained loss and damage on the said property to the amount of the sum last aforesaid, which said loss and damage did not happen by means of any invasion, foreign enemy, rebellion, insurrection, riot, civil commotion military or usurped power, or martial law, earthquake, hurricane, spontaneous fermentation or heating, application of process by fire heat or explosion.

And the plaintiff further avers that forthwith after the happening of the said loss and damage he gave notice thereof to the defendant and as soon thereafter as possible delivered to the defendant as particular an account of the said loss and damage as the nature of the case would admit, and the plaintiff further avers that there was not at or since the time of making the said policy any other insurance on the said property except as stated in the policy and the said building was not at or since that time appropriated applied or used to and for the purpose of carrying on or exercising therein any trade business or vocation denominated hazardous or extra hazardous or included in special rates.

Nevertheless although the plaintiff has kept and performed all things in the said policy mentioned on his part to be kept and performed, the defendant has not yet paid to the plaintiff the said

THE ROYAL INSURANCE CO.

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amount of the loss and damage aforesaid or any part thereof
but refuses to do so to the damage of the plaintiff of 10,000.00
dollars and therefore he brings this suit.

C. M. BOERMAN,
P'tff's Attorney.

U. S. OF AMERICA, } ss:
District of Porto Rico,

Fedrico Amamdeo sworn says that the foregoing declaration is
true in substance and fact.

FEDERICO AMADEO.

Sworn to before me this 11th day of April 1903.

A. AGUAYO, D. C.

In the United States District Court for the District of Porto Rico.

FEDERICO AMADEO }
against } No. 145.
THE ROYAL INSURANCE COMPANY OF LIVERPOOL. }

Federico Amadeo, a citizen and resident of Porto Rico by his attorney Charles M. Boerman complain of the Royal Insurance Company of Liverpool, a corporation organized under and by the laws of the United Kingdom of Great Britain and Ireland, defendant of a plea of trespass on the case on promises: For that whereas the defendant on the 26th July 1884 made its policy of insurance and delivered the same to the plaintiff and for the consideration therein expressed to it paid by the plaintiff, promised the plaintiff in the terms of the said policy and the condition thereto annexed, which said policy and conditions here follow in these words and figures to wit:

This policy of insurance witnesseth that Federico Amadeo Esq. merchant of Quebrada Arena, Maunabo, P. R. hereinafter called the insured, having paid to the undersigned as authorized agents of the Royal Insurance Company, hereinafter called the company the sum of \$1 dollars 25 cent- currency for insuring against loss and damage by fire as hereinafter mentioned, the property hereinafter described in the sum or several sums following to wit:

\$6,500.00 on two buildings located in the sugar estate Quebrada Arenas, in the parish of same name of Maunabo, and the contents of both, property of the insured as under:

\$2,000.00 on a house timber built and shingle roofed, serving as dry-good- and provision store No. 1 of plan in possession of this agency. $1\frac{1}{2}\%$

10 \$3000.00 on the stock of dry goods and provisions contained in the aforesaid building.

\$800 on a house built of timber and roofed with galvanized iron, 17 feet distant from the preceding and serving as a *sotre* house for provisions (No. 2 of plan) * * * 1½%.

\$700 on the stock of goods stored in the last mentioned building.

\$6500—B. A. small stock of kerosene is kept on the premises.

The company hereby agree with the insured (but subject to the conditions on the back thereof which are to be taken as a part of this policy) that if the property above described or any part thereof shall be destroyed or damaged by fire at any time between the 26th day of July 1884 and four o'clock in the afternoon of the 26th day of July, 1885 the company will out of their capital stock and funds make good or pay to the insured the value of the property so destroyed or the amount of such damage thereto to the amount not exceeding in respect of each or any of the several matters above specified the sum set opposite thereto respectively, and not exceeding in the whole the sum of 6,500.00 dollars currency and also not exceeding in any case the amount of the insurable interest therein of the insured at the time of the happening of such fire. In witness whereof, we, two of the directors of the said company by their authorized agents have hereunto set our hands and have caused the common seal of said company to be hereunto affixed dated at Porto Rico this 26th day of July in the year of our Lord 1884, and issued there.

R. BROCKBANK,

E. W. RAYNER,

Directors,

By Their Attorneys, FEDERSEN, WILLINK & CO.,

Agents to the company.

The conditions referred to in this policy are as follows :

1. Any material misdescription of any of the property proposed to be hereby insured or of any building or place in which property to be so insured is contained or any omission to state the existence of any hazardous trade or of any apparatus in or by which heat is produced other than grates in common fire places herein and any misstatement of or omission to state any fact *any fact* material to be known for estimating the risk whether at the time of effecting the insurance or afterwards, renders this policy void as to the property affected by such misdescription misstatement or omission respectively.

2. If after the risk has been undertaken by the company anything whereby the risk is increased be done in or upon property hereby insured or to upon or in any building or place in which property hereby insured is contained, or if any property hereby insured is removed from the building or place in which it is herein described as being contained or if any addition to the risk arise from any other cause whatsoever without in each and every of such cases the assent or sanction of the company signified by indorsement thereon

or if the insured shall refuse or neglect to pay any further premium which may be demanded in consequence of any increase of risk, the insurance as to the property thereby effected ceases immediately thereupon to attach. And if by reason of such alteration or addition or from any cause whatever the company or its agents shall desire to terminate the insurance effected by this policy it shall be lawfull for the company or its agents so to do by notice to the insured or his representative and to require this policy to be given up for the purpose of being cancelled, provided that in any such case the company shall refund to the insured a rateable proportion for the unexpired time thereof of the premium received for the insurance.

3. This policy does not cover property held in trust or on commission unless expressly described as such, nor china glass, looking glasses, jewels glass clocks, watches, trinkets, medals curiosities manuscripts, prints painting drawings sculptures musical mathematical and philosophical instruments, patterns models and moulds unless specially mentioned in the policy, nor deeds, bonds, bills of exchange promissory notes, money security for money stamps and books of account, nor gun powder, nor loss or damage by fire happening during the existence of any invasion foreign enemy rebellion insurrection riot, civil commotion military or usurped power or martial law within the country or locality in which the property insured is situated unless proof be made to the satisfaction of the directors that such loss or damage was not occasioned by or connected with but occurred from a cause or causes independent of the existence of such invasion, foreign enemy rebellion, insurrection, riot civil commotion military or usurped power or martial law. And this policy does not cover loss or damage occasioned by or through any earthquake or hurricane or by or through the spontaneous fermentation or heating of the subject insured, nor goods destroyed or damaged while undergoing any process by which the application of fire heat is necessary, nor loss or damage by explosion except loss or damage to a building or property contained therein caused by explosion of gas in such building not being a building in which gas is manufactured.

4. No insurance proposed to the company is to be considered in force until the premium be actually paid. No receipts for any premiums of insurance shall be valid or available for any purpose whatever except as are printed and issued from the company's office and signed by one of the clerks or agents of the office and impressed with the seal of the company, and any condition or proviso contained in endorsed upon or referred to in any such receipt shall be taken as part of this policy.

5. This policy ceases to be in force as to any property hereby insured which shall pass from the insured to any other person otherwise than by will or operation of law unless notice thereof be given to the company and the subsistence of the insurance in favor of

such other person be declared by a memorandum endorsed thereon by or in behalf of the company.

6. On the happening of any loss or damage by fire to any other property hereby insured the insured must forthwith give notice in writing thereof to the company and within fifteen days at latest deliver to the company as particular an account as may be reasonably practicable of the several articles or matters damage- or destroyed by fire and also of all other articles and matters insured by this company policy with the estimated value of each of them respectively having regard to the several values at the time of the fire, and also of the nature and amount of the loss or damage occasioned to each or any such article or matter, and of the interest of the insured therein, and in support thereof give all such vouchers proffs and explanations and other evidence as *may* be reasonably required by or on behalf of the company together with if

13 required a statutory declaration of the truth of the account, and in default thereof no claim in respect of sucg loss or damage shall be payable or sustainable unless and until such notice, account proof and explanations or evidence respectively shall have been given or produced as aforesaid, and such statutory declaration if required shall have been made.

7. No profit or advantage of any kind is to be included in any claim for loss or damage under this policy and if the claim be in any respect fraudulent or if any false statutory declaration be made or used in support thereof, of the fire be occasioned by or through the procurement or with the knowledge or connivance of the insured, all benefit under this policy is forfeited.

8. In case of damage by the removal of property to escape conflagration this company will contribute thereto in the proportion the insured hereby shall bear to the whole value of such property before removal, but the company shall not be held liable for property stolen.

9. The company may if they think fit at their option reinstate or replace the property damage- or destroyed instead of paying the amount of the loss or damage and may join with any other company or insurers in so doing in cases where the property is also insured el-where.

10. On the happening of any damage by fire to any building or place or property or effects within any building or place in respect of which a claim is or may be made under this policy the company without being deemed wrong doers may by their authorized officers and servants or others enter into and for a reasonable time remain in possession of such building or place property or effects for all reasonable purposes relating to or in connection with the insurance hereby effected and this policy shall be evidence of leave and license and authority for that purpose.

11. The insured must give notice to the company of any insurance or insurances made elsewhere on the property hereby insured or any part thereof, the particulars of which must be endorsed on

the policy and unless such notice be given and endorsement be made the insured will not be entitled to any benefit under this policy.

12. If at the time of any loss or damage by fire happening to any property hereby insured there be any other subsisting insurance or insurances whether effected by the insured or by any other person covering the same property, this company shall not be liable to pay or contribute in respect of such loss or damage more than its rateable proportion of such loss or damage.

13. In all cases where any other subsisting insurance or insurances whether effected by the insured or by any other person on any property hereby insured either exclusively or together with any other property in and subject to the same risk only shall be subject to average, the insurance on such property under this policy shall be subject to average in like manner.

14. If any difference shall at any time arise between the company and the insured or any claimant under this policy as to the amount of any loss or damage by fire and no fraud be alleged, every such difference as and when the same arises shall be referred to the arbitration and decision of two indifferent persons, one to be chosen by the party claiming and the other by the company, or in case of disagreement between them then of an umpire to be chosen by the arbitrators before entering on the reference—provided if one of the parties fail to name an arbitrator within ninety days after being called upon by the other party to do so subsequently to furnishing of the proofs and evidence and other matters as stipulated by the foregoing condition numero 6—then in such case shall the other party be at liberty to chose both arbitrators who shall agree upon an umpire before entering upon the evidence reference—and the costs of the reference shall be in the direction of the arbitrators or umpire as the case may be who shall award by whom and in what manner the same shall be paid, and the decision of the arbitrators or umpire as the case may be shall be final and binding on all parties and these conditions shall be deemed and taken to be an agreement to refer as aforesaid. And it is hereby expressly stipulated and declared that the obtaining of an award by such arbitrators or umpire as the case may be shall be a condition precedent to the liability or obligation of the company to pay or satisfy any claim under this policy for loss or damage in respect of which any such difference may have arisen and to the enforcement of any such claim.

15. 15. In all cases where this policy is void or ceases to be in force under any of the foregoing conditions all moneys paid to the company in respect thereof will be forfeited.

16. The directors of the company shall not be sued or made personally responsible for this insurance until the funds of the company are first exhausted, and the agents shall in no case be responsible either on account of any legal or any other investigation which they may find it necessary to institute for the satisfaction of the company

nor can their personal property be attached on account of any alleged loss by the insured.

17. If in any case the company will be unable to reinstate or repair the buildings because of any provisions in the acts in force for regulating the alignment of streets or the erection of buildings the company shall in every such case only be liable to pay such a sum as would be required to reinstate or repair such building if the same could lawfully be reinstated to their former condition.

18. It is hereby declared and agreed that if the property covered by this policy shall at the breaking out of any fire be collectively of greater value than the sum insured thereon, then this company shall pay or make good such a proportion only of the loss or damage as the sum so insured shall bear to the whole value of the said property at the time when such fire shall happen. * * *

And the plaintiff avers that at the time of the making of the said policy and from thence until the happening of the loss and damage hereinafter mentioned he had an interest in the said property to the amount of the said sum so by the defendant insured thereon as aforesaid.

And the plaintiff further avers that on the 7th day of February 1885 the said property was consumed and destroyed by fire, whereby the plaintiff then and there sustained loss and damage on the said property to the amount of the sum last aforesaid, which said loss and damage did not happen by means of any invasion — foreign enemy, rebellion insurrection riot civil commotion, military or usurped power or martial law earthquake hurricane spontaneous fermentation or heating, application of process of fire heat or explosion.

16 And the plaintiff further avers that forthwith after the happening of the said loss and damage he gave notice thereof to the defendant and as soon thereafter as possible delivered to the defendant as particular an account of the said loss and damage as the nature of the case would admit. And the plaintiff further avers that there was not at or since the time of making the said policy any other insurance on the said property and that the said building was not at or since that time appropriated applied or used to and for the purpose of carrying on or exercising therein any trade business or vocation denominated hazardous or extra-hazardous or included in special rates.

Nevertheless although the plaintiff has kept and performed all things in the said policy mentioned on his part to be kept and performed, the defendant has not yet paid to the plaintiff the said amount of the loss and damage aforesaid or any part thereof but refuses so to do. To the damage of the plaintiff of 30,000.00 dollars and therefore he brings his suit.

C. M. BOERMAN,
Plaintiff's Attorney.

U. S. OF AMERICA, } ss:
District of Porto Rico,

Federico Amadeo sworn says that the foregoing declaration is true in substance and fact.

FEDERICO AMADEO.

Sworn to before me this 11th day of April 1903.

A. AGUAYO, D. C.

Præcipe for Summons.

UNITED STATES OF AMERICA, } ss:
District of Porto Rico,

FEDERICO AMADEO

vs.

ROYAL INSURANCE COMPANY OF LIVERPOOL.

}

No. 144.

Clerk of said court:

Please issue summons in the above entitled case returnable to May term.

C. M. BOERMAN,
Attorney for Plaintiff.

UNITED STATES OF AMERICA, } ss:
District of Porto Rico,

FEDERICO AMADEO

vs.

ROYAL INSURANCE CO. OF LIVERPOOL.

}

No. 145.

Clerk of said court:

Please issue summons in the above entitled case returnable
17 to May term.

C. M. BOERMAN,
Attorney for Plaintiff.

Thereupon there was issued out of the clerk's office of this court a writ of summons in each of *this* causes directed to the marshal of this court and against the defendant herein, which said summons are as follows, to wit:

In the District Court of the United States for Porto Rico.

FEDERICO AMADEO
vs.
ROYAL INSURANCE COMPANY OF LIVERPOOL } No. 144.

Summons.

UNITED STATES OF AMERICA, } ss :
District of Porto Rico,

The President of the United States of America to the marshal of the district of Porto Rico, Greeting :

You are hereby commanded to summon the Royal Insurance Company of Liverpool if it can be found in your district to be and appear before the United States district court for the district of Porto Rico at the court rooms of said court in the city of Ponce on the 11th day of May 1903, then and there to answer unto Federico Amadeo on the action assumpsit damages 10,000.00 and have you then and there this writ.

Failing to so appear judgment may be entered against the said defendant by default.

Witness : the Honorable Wm. H. Holt judge of the district court of the United States for Porto Rico, this 21st day of April A. D. 1903 and of the Independence of the United States of America the 127th.

Attest:

RICARDO NADAL, Clerk,
By A. AGUAYO, Deputy.

In the District Court of the United States for Porto Rico.

FEDERICO AMADEO
vs.
THE ROYAL INSURANCE COMPANY OF LIVERPOOL } No. 145.

Summons.

UNITED STATES OF AMERICA, } ss :
District of Porto Rico,

18 The President of the United States of America to the marshal of the district of Porto Rico, Greeting :

You are hereby commanded to summon the Royal Insurance Company of Liverpool if it can be found in your district to be and appear before the United States district court for the district of Porto Rico at the court rooms of said court in the city of Ponce on the 11th

day of May, 1903, then and there to answer unto Federico Amadeo on an action assumpsit damages 30,000.00 and have you then and there this writ. Failing to so appear judgment may be entered against the said defendant by default.

Witness: the Honorable Wm. H. Holt, judge of the district court of the United States for Porto Rico, this 21st day of April A. D. 1903 and of the Independence of the United States of America the 127th.

Attest:

RICARDO NADAL, Clerk,
By A. AGUAYO, Deputy.

And afterwards to wit: on the 23rd day of April, 1903, came the marshal of this district to whom the said writs were in form aforesaid direct'd and returned the same into the clerk's office of said court with his proceedings endorsed thereon as follows, to wit:

Return on Service of Writ.

UNITED STATES OF AMERICA, }
The District of Porto Rico, } ss:

I hereby certify and return that I served the annexed writ on the therein named The Royal Insurance Company of Liverpool by handing to and leaving a true and correct copy thereof with Nicasio Arsuaga a member of the firm of Sobrinos de Esquiga chief agents within the district of the Royal Insurance Company of Liverpool personally at San Juan in said district on the 23rd day of April A. D., 1903.

E. S. WILSON,
U. S. Marshal.
J. L. MILLER, Deputy.

Return on Service of Writ.

UNITED STATES OF AMERICA, }
The District of Porto Rico. }

I hereby certify and return that I serve- the annexed writ on the therein named The Royal Insurance Company of Liverpool by handing to and leaving a true and correct copy thereof with Nicasio Arzuaga a member of the firm of Sobrinos de Ezquiaga chief agents within the district of the Royal Insurance Co. of Liverpool 19 personally at San Juan in said district on the 23rd day of April A. D., 1903.

E. S. WILSON,
U. S. Marshal.
J. L. MILLER, Deputy.

And afterwards to wit: on the 11th day of May in the year last aforesaid 1903, came the defendant by its attorneys and filed in the clerk's office of this court a demurrer to the declaration in the said cases which said demurrer is as follows, to wit:

In the District Court of the United States for Porto Rico, Sitting at Ponce.

FEDERICO AMADEO
vs.
ROYAL INSURANCE COMPANY. } Common Law. No. 144.

Demurrer to the Declaration.

Now comes defendant above named by its attorneys Dexter and Hord and demurs to the declaration herein filed,

1st. For the reason that it does not state a cause of action; Second. Because upon the face thereof and by the admission of the plaintiff contained therein, it appears that the said alleged cause of action is prescribed and barred by the statute of limitations and the period of prescription as provided in the civil and commercial codes.

DEXTER AND HORD,
Attorneys for Defendant.

In the District Court of the United States for Porto Rico, Sitting at Ponce.

FEDERICO AMADEO
vs.
ROYAL INSURANCE COMPANY. } Common Law. No. 145.

Demurrer to Declaration.

Now comes the defendant above named by its attorneys Dexter and Hord and demurs to the declaration herein filed,

First. For the reason that it does not state a cause of action; Second. Because on the face thereof and by the admission of the plaintiff contained therein, it appears that the said alleged cause of action is prescribed and barred by the statute of limitations and the period of prescription as provided in the civil and commercial codes.

DEXTER AND HORD,
Attorneys for Defendant.

20 Thereupon the following entries were made upon the journal of said court in said cases, to wit:

FEDERICO AMADEO
vs.
THE ROYAL INSURANCE COMPANY. } No. 144.

Now comes the defendant herein by its attorneys Dexter and Hord and files a demurrer to the declaration herein and the same being heard is overruled and thereupon defendant files a plea.

FEDERICO AMADEO
vs.
ROYAL INSURANCE COMPANY. } No. 145.

Now comes the defendant herein by its attorneys Dexter and Hord and files a demurrer to the declaration herein the same being heard is overruled and thereupon the defendant files a plea.

And the said plea filed by the defendant in said causes is as follows to wit:

In the United States District Court for Porto Rico, Sitting at Ponce.

FEDERICO AMADEO
vs.
THE ROYAL INSURANCE COMPANY. } Common Law. No. 144.

Plea.

Now comes the defendant above named, by its attorneys Dexter and Hord, and for its various pleas to the declaration herein filed, says:

First. Defendant never promised and is not indebted to plaintiff in manner and form as in said declaration alleged; and of this it puts itself upon the country.

Second. For a second and further plea to the said declaration, defendant says that plaintiff ought not to have and recover herein for the reason that the alleged cause of action did not accrue within fifteen years before this suit; and of this it puts itself upon the country.

Third. For third and further plea to the said declaration, defendant says that plaintiff ought not to have and recover herein for the reason that plaintiff has no interest in the proceeds of the 21 policy sued — nor did he have at the time of the institution of this suit, the said policy and the proceeds thereof having been transferred, sold and assigned by him by notarial document on — — 188—.

Fourth. For a fourth and further plea to said declaration defendant says that plaintiff ought not to recover herein for the reason that there has been no such damage or loss as set forth in said declaration, and this defendant is ready to verify.

Fifth. For a fifth and further plea herein defendant says that plaintiff ought not to recover herein for the reason that within fifteen days after the fire described in said declaration there was not delivered to defendant a particular account as was reasonably practicable of the several articles or property damaged or destroyed by fire, and of all other articles and matters insured under the said policy, with the estimated value of each of them respectively, having regard to their several values at the time of the fire; also stating the nature and amount of the loss or damage occasioned to each and every such article or matter, and of the interest of the insured therein, and in support thereof such vouchers, proofs and explanations and other evidence as was required by and on behalf of defendant, together with a statutory declaration of the truth of all the same, although all of said settlements, proofs declarations and explanations were demanded by the defendant; and no such proofs, claims, settlements or declarations have at any time been delivered to defendant; and of this defendant puts itself upon the country.

Sixth. For a sixth and further plea to the declaration herein defendant says that plaintiff ought not to recover for the reason that immediately after the fire plaintiff made a claim in general terms for the full value of the said policy but without specifying the articles or giving in detail the information and proofs demanded of plaintiff by defendant as set forth in the fifth plea next above pleaded; but said claim was made for the full amount of said policy, and was fraudulent in this to wit that the value of said property insured by the policy described in the declaration herein at the time of said insurance was not the sum specified in said policy,

but that said value was much less than the amount contained
22 in said policy, and that this insurance, sued on herein, was obtained by the false and fraudulent representations of plaintiff and without the knowledge of the defendant as to the real value of the said property so insured. And further the said claim for the total amount of the said policy so made as aforesaid was false and fraudulent for the reason that at the time of said fire the property so described in the said policy sued on herein was greatly less the sum so claimed as aforesaid by the plaintiff; and this defendant is ready to verify.

Seventh. For seventh and further plea defendant says that plaintiff ought not to have and recover herein for the reason that the said fire as described in the declaration herein, and the destruction and loss of the property covered by the policy, sued on herein was caused and occasioned by the procurement, means, designs and voluntary act of the plaintiff, who caused the said property to be set fire for the fraudulent purpose of recovering from this defendant the amount of the said policy; and this defendant is ready to verify.

DEXTER & HORD,
Att's for Dft.

Miguel L. Arsuaga being duly sworn, upon his oath says, that he is one of the agents of the defendant company in the above entitled cause, that he has read the foregoing plea, and that the facts stated therein are true to the best of his knowledge and belief.

MIGUEL ARSUAGA.

Sworn to and subscribed before me this May 11th 1903.

A. AGUAYO,
D. C. U. S. Court.

In the United States District Court for Porto Rico, Sitting at Ponce.

FEDERICO AMADRO
vs.
ROYAL INSURANCE COMPANY. } Common Law. No. 145.

Plen.

Now comes defendant above named, by its attorneys Dexter & Hord, and for its various pleas to the declaration herein filed, says:

First. Defendant never promised and is not indebted to plaintiff in manner and form as in said declaration alleged ; and of this it puts itself upon the country.

23 Second. For a second and further plea to the said declaration, defendant says that plaintiff ought not to have and recover herein for the reason that the alleged cause of action did not accrue within fifteen years before this suit ; and of this it puts itself upon the country.

Third. For a third and further plea to the said declaration defendant says that the plaintiff ought not to have and recover herein for the reason that plaintiff has no interest in the proceeds of the policy sued on, nor did he have at the time of the institution of this suit, the said policy and the proceeds thereof having been transferred, sold and assigned by him by notarial document on — 188—.

Fourth. For a forth and further plea to said declaration defendant says that plaintiff ought not to recover herein for the reason that there has been no such damage or loss as set forth in the said declaration, and this defendant is ready to verify.

Fifth. For a fifth and further plea herein defendant says that plaintiff ought not to recover herein for the reason that within fifteen days after the fire described in said declaration ther- was not delivered to defendant a particular account as was reasonable practicable for the several articles or property damaged or destroyed by fire, and of all other articles and matters insured under the said policy, with the estimated value of each of them respectively, having regard to their several values at the time of the fire ; also stating the nature and amount of the loss or damage occasioned to each and any such article or matter, and of the interest of the insured therein, and

in support thereof such vouchers, proofs and explanations and other evidence as was required by and on behalf of defendant, together with a statutory declaration of the truth of all of the same, although all of said settlements, proofs declarations and explanations were demanded by the defendant; and no such proofs, claims, settlements or declarations have at any time been delivered to defendant; and of this defendant puts itself upon the country.

Sixth. For a sixth and further plea to the declaration herein defendant says that plaintiff ought not to recover for the reason that immediately after the fire plaintiff made a claim in general terms for the full value of the said policy but without specifying the articles or giving in detail the information and proofs demanded of plaintiff by defendant as set forth in the fifth plea next above pleaded; but said claim was made for the full amount of said policy, and was fraudulent to this, to wit: That the value of said property insured by the policy described in the declaration herein at the time of the said insurance was not the sum specified in said policy, but that said value was much less than the amount contained in said policy, and that this insurance, sued on herein, was obtained by the false and fraudulent representations of plaintiff and without the knowledge of the defendant as to the real value of the said property so insured. And further the said claim for the total amount of the said policy so made as aforesaid was false and fraudulent for the reason that at the time of said fire the property so described in the said policy sued on herein was greatly less the said sum so claimed as aforesaid by plaintiff; and this defendant is ready to verify.

Seventh. For seventh and further plea defendant says that plaintiff ought not to have or recover herein for the reason that the said fire as described in the declaration herein, and the destruction and loss of the property covered by the policy sued on herein was caused and occasioned by the procurement, means, designs and voluntary act of the plaintiff, who caused the said property to be set fire for the fraudulent purpose of recovering from this defendant the amount of the said policy; and this defendant is ready to verify.

DEXTER & HORD,
Attorneys for Def't.

Miguel Arsuaga being duly sworn upon his oath says, that he is one of the agents of the defendant company in the above entitled case that he has read the foregoing plea, and that the facts stated therein are true to the best of his knowledge and belief.

MIGUEL L. ARSUAGA.

Sworn to and suscribed before me this 11th May 1903.

A. AGUAYO,
D'ty Clerk U. S. Court.

And afterwards to wit: on the 12th day of May in the year last aforesaid came the plaintiff by his attorney and filed in the clerk's office of said court his replication in these causes, which said replications are as follows to wit:

25 United States District Court for Porto Rico.

FEDERICO AMADEO } No. 144.
vs.
ROYAL INSURANCE CO. }
 }

1st. And the plaintiff says that as to the first plea of the defendant whereof it puts itself upon the country the plaintiff does the same.

2. And as to the second and third pleas of the defendant the plaintiff says that the same and the matters therein pleaded in manner and form are not sufficient in law to bar him from having his aforesaid action and that he is not bound by law to answer the same, and this he is ready to verify, wherefore for want of sufficient plea in this behalf the plaintiff prays judgment.

3. As to the fourth plea the plaintiff puts himself upon the country.

4. As to the fifth plea plaintiff states that all the notices proofs and other papers required by the policy to be delivered within fifteen days were so delivered and this plaintiff prays may be inquired by the country.

5. As to the sixth plea plaintiff avers that there was no fraud intended or committed neither in the policy nor in the proofs or claim, and this he prays may be inquired by the country.

6. As to the seventh plea plaintiff says that the fire was not of incendiary origin or by his negligence and of this he puts himself upon the country.

C. M. BOERMAN,
Plaintiff's Attorney.

UNITED STATES OF AMERICA, } ss:
District of Porto Rico, }

Federico Amadeo on oath says that the foregoing pleas are true in substance and fact.

FEDERICO AMADEO.

Sworn to before me this 12th May 1903.

A. AGUAYO, D. C.

United States District Court for Porto Rico.

FEDERICO AMADEO
vs.
ROYAL INSURANCE COMPANY. } Common Law. No. 145.

1. And the plaintiff says that as to the first plea of the defendant whereof it puts itself upon the country the plaintiff does the 26 same.

2. As to the second and third pleas of the defendant the plaintiff says that the same and the matters therein pleaded in manner and form are not sufficient in law to bar him from having his aforesaid action and that he is not bound by law to answer the same, and this he is ready to verify, wherefore for want of a sufficient plea in this behalf the plaintiff prays judgment.

3. As to the fourth plea the plaintiff puts itself upon the country.

4. As to the fifth plea plaintiff states that all the notices proofs and other papers required by the policy to be delivered within fifteen days were so delivered and this plaintiff prays may be inquired by the country.

5. As to the sixth plea plaintiff avers that there was no fraud intended or committed neither in the policy nor in the proofs or claim, and this he prays may be inquired by the country.

6. As to the seventh plea plaintiff says that the fire was not of incendiary origin or by his negligence and of this he puts himself upon the country.

C. M. BOERMAN,
Plaintiff's Attorney.

UNITED STATES OF AMERICA, } ss :
District of Porto Rico,

Federico Amadeo on oath says that the foregoing pleas are true in substance and fact.

FEDERICO AMADEO.

Sworn to before me this 12th May, 1903.

A. AGUAYO, D. C.

And the same day and year last aforesaid came the defendant by its attorneys and filed in the clerk's office of said court a motion to strike parts of plaintiff replication in said cause and which said motion is as follows to wit:

United States District Court of Porto Rico, Sitting at Ponce.

FEDERICO AMADEO
vs.
ROYAL INSURANCE COMPANY. } C. L. No. 144.

Motion to Strike.

Now comes the defendant herein by its attorneys Dexter and Hord and moves the court to strike from the replication herein the 27 following paragraphs or part thereof, to wit:

Those paragraphs or parts of the said replication w-ich purport to be a replication to the fifth, sixth and seventh pleas of the defendant herein for the reason that the same are argumentative, trivial and not good pleading.

DEXTER AND HORD,
Attorneys for Defendant.

United States District Court for Port Rico, Sitting at Ponce.

FEDERICO AMADEO
vs.
ROYAL INSURANCE COMPANY. } C. L. No. 145.

Motion to Strike.

Now comes the defendant herein by it- attorneys Dexter and Hord and moves the court to strike from the replication herein the following paragraphs or parts thereof, to wit:

Those paragraphs or parts of the said replication that purport to be a replication to the fifth, sixth and seventh pleas of the defendant herein for the reason that the same are argumentative, trivial and not good pleading.

DEXTER AND HORD,
Attorneys for Defendant.

Thereupon the following entries were made upon the journal of said court in said causes, to wit:

FEDERICO AMADEO
vs.
ROYAL INSURANCE COMPANY. } No. 144.

Now comes the defendant herein by its attorneys Dexter and Hord and files a motion to strike parts of plaintiff's replication and the same being heard is submitted.

FEDERICO AMADEO, ETC., VS.

FEDERICO AMADEO
vs.
THE ROYAL INSURANCE COMPANY. } No. 145.

Now comes the defendant herein by its attorneys Dexter and Hord and files a motion to strike parts of plaintiff's replication and the same being heard is submitted.

28 And afterwards to wit: on the 18th day of May in the year aforesaid 1903 the following entries were made upon the journal of said court in said causes, to wit:

FEDERICO AMADEO
vs.
THE ROYAL INSURANCE CO. } No. 144.

Now comes the plaintiff herein by his attorney C. M. Boerman Esq. and tenders an amended complaint to which the defendant objects and the same being allowed to be filed, defendant excepts.

FEDERICO AMADEO
vs.
THE ROYAL INSURANCE COMPANY. } No. 145.

Now comes the plaintiff herein by his attorney C. M. Boerman Esq. and tenders an amended complaint to which the defendant objects and the same being allowed to be filed, defendant excepts.

And said amended complaint filed by the plaintiff in these causes are as follows, to wit:

United States District Court for Porto Rico.

FEDERICO AMADEO
against
THE ROYAL INSURANCE COMPANY. } No. 144.

The plaintiff by leave of court amends his declaration as follows: In the title of the case after the name of the plaintiff add the words: "for the use and jointly with the Pastor Marquez Company in liquidation."

In the body of the declaration at the end of it add the following paragraph:

"And the plaintiff avers that on or about the month of August 1885, the said policy was assigned to the Pastor Marquez Company in liquidation, of which Pedro Salazar is liquidator."

C. M. BOERMAN,
Plaintiff's Attorney.

Federico Amadeo on oath says that the foregoing amendment to the declaration is true.

FEDERICO AMADEO.

29 Sworn to before me this 18th day of May 1903.

RICARDO NADAL, Clerk,
By A. AGUAYO,
Deputy Clerk.

United States District Court for Porto Rico.

FEDERICO AMADEO
against } Com. Law. No. 145.
THE ROYAL INSURANCE COMPANY.

The plaintiff by leave of court amends his declaration as follows:
In the title of the case after the name of the plaintiff add the words "for the use of and jointly with the Pastor Marquez Company in liquidation."

In the body of the declaration at the end of it add the following paragraph:

"And the plaintiff avers that on or about the month of August 1885 the said policy was assigned to the Pastor Marquez Company in liquidation of which Pedro Salazar is liquidator.

C. M. BOERMAN,
Plaintiff's Attorney.

Federico Amadeo on oath says that the foregoing amendment to the declaration is true.

FEDERICO AMADEO.

Sworn to before me this 18th day of May 1903.

RICARDO NADAL, Clerk,
By A. AGUAYO, D. C.

And afterwards to wit: on the 21st day of May on the year last aforesaid the following entries were made upon the journal of said court in said causes, to wit:

FEDERICO AMADEO
vs. } No. 144.
ROYAL INSURANCE Co.

Now comes the defendant herein by its attorneys Dexter and Hord and with permission of the court first had withdraws its motion to strike parts of replication and by consent such replication is traversed upon the record.

FEDERICO AMADEO
vs. } No. 145.
ROYAL INSURANCE COMPANY.

Now comes the defendant herein by its attorneys Dexter and Hord and with permission of the court first had withdraws its motion to strike part of replication and by consent said replication is traversed upon the record.

FEDERICO AMADEO, ETC., VS.

And afterwards to wit: on the 25th day of May in the year last aforesaid, came the defendant by its attorneys and filed in the clerk's office of the court aforesaid a motion to consolidate these causes, which said motion is as follows, to wit:

United States District Court for Porto Rico, Sitting at Ponce.

ANTONIO J. AMADEO vs. NORTHERN ASSURANCE COMPANY.	}	No. 141.
ANTONIO J. AMADEO vs. ROYAL INSURANCE CO.	}	No. 142.
ANTONIO J. AMADEO vs. ROYAL INSURANCE CO.	}	No. 143.
FEDERICO AMADEO vs. ROYAL INSURANCE CO.	}	No. 144.
FEDERICO AMADEO vs. ROYAL INSURANCE CO.	}	No. 145.

Motion to Consolidate.

Now comes the defendant in the above numbered and styled causes by their attorneys Dexter and Hord, and moves the court to consolidate the said suits and in support of said motion, represents that the said suits are between the same parties and that the issues therein are the same; that by consolidating said causes great expenses will be saved to the parties and to this court and that otherwise much unnecessary time of the court will be taken and great trouble be had in the procurement of juries to try the same.

DEXTER AND HORD,
Attorneys for Defendants.

And afterwards, to wit: on the 27th day of May in the year last aforesaid an entry was made upon the journal of said court in said causes, which said entry is as follows, to wit:

31

JODÉ ANTONIO AMADEO ET AL. }
 vs. } No. 142.
 THE ROYAL INSURANCE COMPANY. }

JODÉ ANTONIO AMADEO ET AL. }
 vs. } No. 143.
 THE ROYAL INSURANCE COMPANY. }

FEDERICO AMADEO ET AL. }
 vs. } No. 144.
 THE ROYAL INSURANCE COMPANY. }

FEDERICO AMADEO ET AL. }
 vs. } No. 145.
 THE ROYAL INSURANCE CO. }

The motion to consolidate the above entitled causes is called up heard and sustained to the extent of consolidating cases No. 142 and 143 and also of consolidating cases No. 144 and 145, and cases No. 142 and 143 are to be tried together and 144 and 145 are to be tried together.

And afterwards to wit: on the 12th day of January A. D. 1904, an entry was made upon the journal of said court in said causes, which said entry is as follows, to wit:

FEDERICO AMADEO ET AL. }
 vs. } No. 144.
 THE ROYAL INSURANCE COMPANY }

and

FEDERICO AMADEO ET AL. }
 vs. } No. 145.
 THE ROYAL INSURANCE COMPANY. }

The demurrer to the second plea filed herein is overruled to which plaintiff- excepts, thereupon plaintiffs filed a replication to the second plea to which the defendant files a demurrer which is sustained and plaintiffs except.

And the additional replication filed by the plaintiffs as aforesaid is as follows, to wit:

United States District Court for Porto Rico.

32 }
 FEDERICO AMADEO ET AL. }
 vs. } No. 144-145.
 ROYAL INSURANCE COMPANY. }

And as to the second and third pleas of the defendant above pleaded the plaintiffs say that the same limitation and prescription

therein pleaded was interrupted by extra-judicial demands and this the plaintiffs pray may be inquired into by the country.

Wherefore the plaintiffs pray judgment and their costs, etc.,

C. M. BOERMAN,
Plaintiffs' Attorney.

Ermelindo Salazar under oath says that the foregoing plea is true in substance and fact.

E. SALAZAR.

Sworn to before me this 12th day of January, 1904.

A. AGUAYO, D. C.

And the demurrer to the replication to the 2nd plea filed herein as aforesaid is as follows, to wit:

United States District Court for Porto Rico, Sitting at Ponce.

FEDERICO J. AMADEO
vs.
ROYAL INSURANCE COMPANY. } No. 144.

FEDERICO J. AMADEO
vs.
ROYAL INSURANCE CO. } No. 145.

Now comes the defendant, by its attorneys of record, and excepting to plaintiffs' replication to defendant's 2nd plea herein, says that the same is insufficient in law. Wherefore, etc.

ROYAL INSURANCE COMPANY,
By F. H. DEXTER AND
HENRY F. HORD,
Its Attorneys of Record.

And afterwards, to wit: on the 15th day of January in the year last aforesaid 1904, an entry was made upon the journal of said court in said causes, which said entry is follows to wit:

FEDERICO AMADEO ET AL. vs. THE ROYAL INSURANCE COMPANY. and FEDERICO AMADEO ET AL. vs. 33 THE ROYAL INSURANCE COMPANY.	} No. 144. } Consolidated. } No. 145. Judgment.
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On this 15th day of January, 1904, came on ~~the~~ these causes for hearing the same having been heretofore consolidated by order of the court,

and both parties being present by their respective attorneys and plaintiffs having heretofore refused to plead further to the second plea, filed herein, by defendant and now failing to offer proofs as to the other issues made and tendered herein, judgment is by the court entered for the defendant. Wherefore, it is by the court ordered and adjudged that the plaintiff herein, Federico Amadeo for himself and for the use and benefit of the firm of Pastor Marquez and Company, and Pedro Salazar as liquidating partner of the said Pastor Marquez & Company, take nothing by either of said suits and that the defendant go hence without day and recover of and from the said plaintiffs all costs in this behalf incurred or expended for which execution may issue. To all of which plaintiffs by their attorneys then and there in open court excepted.

It is further ordered that plaintiffs have until March 15th, 1904 to file their bill of exceptions herein and that the amount of the appeal bond be fixed at the sum of five hundred dollars for said causes jointly.

On the 14th day of March, 1904 the plaintiffs filed their bill of exceptions which is as follows:

United States District Court for Porto Rico.

FEDERICO AMADEO ET AL. }
against } Common Law. Nos. 144-145.
THE ROYAL INSURANCE COMPANY. }

Bill of Exceptions.

Be it remembered that at a term of the district court of the United States for Porto Rico held in the city of Ponce on the 12th day of January, 1904 a cause therein pending wherein Federico Amadeo and The Pastor Marquez Company were plaintiffs and The Royal Insurance Company of Liverpool was defendant, came on to be heard before the Honorable William H. Holt, judge of the 34 said court, upon the demurrer of the plaintiffs aforesaid to the second plea of the defendant to the declaration, and thereupon the court overruled said demurrer, to which ruling of the court the plaintiffs excepted.

Thereupon the plaintiff having filed a replication to said plea the defendant demurred to said replication, and the court upon hearing the argument on said demurrer sustained the demurrer to the said replication to which ruling of the court the plaintiffs excepted.

This bill may not be necessary to the appeal,—in fact the court so thinks, but counsel desiring, it is approved and signed this March 14, 1904.

WILLIAM H. HOLT, Judge.

And on the 20th day of September, 1904 the plaintiffs filed a petition for a writ of error and assignment of errors in these cases as follows to wit:

Petition for a Writ of Error.

United States District Court for Porto Rico.

FEDERICO AMADEO ET AL. }
vs.
ROYAL INSURANCE COMPANY. }

The plaintiffs in the above entitled cause feeling themselves aggrieved by the judgment entered on the 15 day of January 1904, come now by their attorney Charles M. Boerman and petition this court for an order allowing said plaintiffs to prosecute a writ of error to the Supreme Court of the United States under and according to the laws of the United States in that behalf made and provided.

And your petitioner will ever pray?

C. M. BOERMAN,
Attorney for the Plaintiffs.

Assignment of Errors.

United States District Court for Porto Rico.

FEDERICO AMADEO ET AL. }
vs.
ROYAL INSURANCE COMPANY. }

Come now the plaintiffs in the above entitled cause and file the following assignment of errors upon which they will rely their prosecution of the writ of error in the above entitled case:

35 1. The court erred in overruling the demurrer of the plaintiffs to the second plea of the defendant to the declaration, and by deciding and adjudging that said plea of limitation is a good plea, contrary to the law of Porto Rico.

2. The court erred in sustaining the demurrer of the defendant to the replication of the plaintiffs to said second plea of the defendant, and by deciding and adjudging that there is no interruption of limitation by extrajudicial demand of plaintiffs, contrary to the law of Porto Rico.

3. That the court erred in rendering judgment for the defendant and against the plaintiffs upon the pleadings in said cause and that said judgment is contrary to the law and to the facts as stated in the pleadings in said cause.

Wherefore the said plaintiffs in error pray that the judgment of said court be reversed and such directions be given that full force and efficacy may inure to the plaintiffs by reason of the said pleas of demurrer.

C. M. BOERMAN,
Attorney for the Plaintiffs.

And on the 21st of September A. D. 1904, the court made the following order: to wit:

In the District Court of the United States for Porto Rico.

FEDERICO AMADEO ET AL. }
vs.
ROYAL INSURANCE COMPANY. }

Upon motion of C. M. Boerman, attorney for plaintiff, and upon filing a petition for a writ of error and assignment of errors, it is ordered that a writ of error be and hereby is allowed to have reviewed in the Supreme Court of the United States, the judgment heretofore entered herein.

This at San Juan Porto Rico this twenty first day of September, 1904.

CHAS. F. McKENNA,
Judge of the District Court of U. S. for Porto Rico.

Appeal Bond. Filed December 20th, 1904.

United States District Court for Porto Rico.

FEDERICO AMADEO AND PASTOR MARQUEZ CO. }
vs.
ROYAL INSURANCE COMPANY. }

36

Know all men by these presents that we, Pastor Marquez Co., as principal and Lucas Amadeo of Barros and Felipe Salazar of Ponce as sureties are held to the defendant above named The Royal Insurance Company of Liverpool in the sum of five hundred dollars to be paid to the said company or its assigns to which payment well and truly to be made we bind ourselves and each of us jointly and severally and our successors and assigns firmly by these presents.

Sealed with our seals and dated the 30th day of November, 1904.

Whereas the above named plaintiffs have sued out a writ of error to the Supreme Court of the United States to reverse the judgment in the above entitled cause by the United States district court for Porto Rico. Now, therefore the condition of this obligation is such

that if the above named plaintiff should prosecute said writ to effect and answer all costs and damages if they shall fail to make good their plea, then this obligation to be void, otherwise to remain in full virtue and force.

PASTOR MARQUEZ CO.,
In Liquid-tion.

E. SALAZAR.
FELIPE SALAZAR.
LUCAS AMADEO.

Felipe Salazar and Lucas Amadeo each of them being duly sworn says that he is worth \$2,500.00 over and above his legal liabilities.

LUCAS AMADEO.
FELIPE SALAZAR.

Sworn to before me this 30 day of November 1904.

A. AGUAYO,
Deputy Clerk U. S. Court.

Felipe Salazar and Lucas Amadeo the persons who signed as sureties in the foregoing bond, personally appeared before me and acknowledged the execution of same. This 30th day of November 1904.

H. H. SCOVILLE,
Clerk U. S. District Court of Porto Rico,
By A. AGUAYO,
Deputy Clerk.

Petition and Order. Filed Dec. 30th, 1904.

In the District Court of the United States for Porto Rico.

37 FEDERICO AMADEO, for the Use of
 and Jointly With the Pastor
 Marquez Company, in Liquidation, }
 vs. } C. L. Nos. 144 and 145.
 THE ROYAL INSURANCE COMPANY.

Petition.

Chas. M. Boerman, attorney for the plaintiffs and appellants in the above entitled cause, shows to this honorable court that, because of the great distance of Porto Rico from Washington, thirty days is too short for the preparation and transmission of the record of this case, and therefore moves and prays this court to grant sixty days additional within which the said transcript of record may be transmitted to the Supreme Court of the United States.

C. M. BOERMAN,
Attorney for Plaintiffs.

Order.

The court hereby orders, upon the foregoing petition, that the time for filing the transcript of record be and *hereby is extended to ninety days from the date of the issuance of the writ of error.*

CHAS. F. MCKENNA,
Judge of the U. S. District for Porto Rico.

In the District Court of the United States for Porto Rico.

I, H. H. Scoville, clerk of said court, do hereby certify, that the foregoing is a true and correct transcript of the record of the causes therein stated on file and of record in this office.

In witness whereof, I have hereunto set my hand and affixed the seal of said court at Ponce, Porto Rico, this 28th day of February, A. D. 1905.

[Seal United States District Court for the District of Porto Rico.]

H. H. SCOVILLE,
Clerk U. S. District Court of Porto Rico,
By A. AGUAYO,
Deputy Clerk.

38 [Endorsed :] No. 144 & 145. In the district court of the United States for Porto Rico. Federico Amadeo vs. Royal Insurance Company. Transcript of record.

39 In the District Court of the United States for Porto Rico.

FEDERICO AMADEO, for the Use of and Jointly with The Pastor Marquez Com- pany, in Liquidation,	vs.	C. L. Nos. 144 and 145.
THE ROYAL INSURANCE COMPANY.		

Citation.

UNITED STATES OF AMERICA, ss:

The President of the United States to the Royal Insurance Company and F. H. Dexter, Esq., its attorney, Greeting :

You are hereby cited and admonished to be and appear at the Supreme Court of the United States, to be held at the city of Washington, District of Columbia, within thirty days from the date of this writ, pursuant to a writ of error filed in the clerk's office of the district court of the United States for Porto Rico, wherein Federico

Amadeo for the use of and jointly with The Pastor Marquez Company in liquidation are plaintiffs and you are defendant in error, to show cause, if any there be, why the judgment in said writ of error mentioned should not be corrected, and speedy justice should not be done to the parties in that behalf.

Witness, the Honorable Melville W. Fuller, Chief Justice of the Supreme Court of the United States of America, this 31st day of December, A. D. 1904, and of the Independence of the United States the one hundred and twenty-ninth.

[Seal United States District Court for the District of Porto Rico.]

CHAS. F. MCKENNA,
Judge of the District Court of the
United States for Porto Rico.

Return on Service Writ.

UNITED STATES OF AMERICA, } ss:
The District of Porto Rico,

I hereby certify and return that I served the annexed citation on the therein-named The Royal Insurance Company by handing to and leaving a true and correct copy thereof with F. H. Dexter, its attorney personally at San Juan in said district on the 5th day of January, A. D. 1905.

E. S. WILSON,
U. S. Marshal.
— — — Deputy.

41 [Endorsed:] No. 144 & 145. In the district court of the United States for Porto Rico. Federico Amadeo for the use of and jointly with The Pastor Marquez Company in liquidation vs. The Royal Insurance Co. Citation. Marshal's fees. 1 service, \$2.00 Expenses — D.

THE ROYAL INSURANCE CO.

42 In the District Court of the United States for Porto Rico.

FEDERICO AMADEO, for the Use of and
Jointly with The Pastor Marquez Com- }
pany, in Liquidation, } C. L. Nos. 144 and 145,
vs. } Consolidated.

THE ROYAL INSURANCE COMPANY.

Writ of Error.

UNITED STATES OF AMERICA, ss :

The President of the United States of America to the Honorable
Chas. F. McKenna, judge of the district court of the United States
for Porto Rico, Greeting:

Because in the record and proceedings, as also in the rendition of
the judgment of a plea which is in the said district court of
the United States for Porto Rico, before you, between Federico
Amadeo for the use of and jointly with The Pastor Marquez Com-
pany in liquidation, plaintiffs in error, and The Royal Insurance
Company, defendant in error, a manifest error has happened to the
great damage of the said Federico Amadeo for the use of and
jointly with The Pastor Marquez Company in liquidation, plain-
tiffs in error, as by the complaint appears.

We, being willing that error, if any has been, should be duly cor-
rected and full and speedy justice done to the parties aforesaid in
this behalf, do command you, if judgment be therein given, that
then under your seal, distinctly and openly, you send the record and
proceedings aforesaid, with all things concerning the same, to the
Supreme Court of the United States, together with this writ,
43 so as to have the same at the city of Washington, District
of Columbia, on the 30th day of January next, in the said
Supreme Court, to be then and there held, that the record and pro-
ceedings aforesaid being inspected, the said Supreme Court may
cause further to be done therein to correct that error, what of right
and according to the laws and customs of the United States should
be done.

Witness, the Honorable Melville W. Fuller, Chief Justice of the
Supreme Court of the United States, the 31st day of December, in
the year of our Lord one thousand nine hundred and four.

H. H. SCOVILLE,
Clerk of the U. S. District Court for Porto Rico.

Allowed by

[Seal United States District Court for the District of Porto Rico.]

CHAS. F. MCKENNA,
Judge of the District Court of the
United States for Porto Rico.

36 FEDERICO AMADEO, ETC., VS. THE ROYAL INSURANCE CO.

44 [Endorsed:] No. 144 & 145. In the district court of the United States for Porto Rico. Federico Amadeo for the use of and together with The Pastor Marquez Company in liquidation vs. The Royal Insurance Company. Writ of error.

Endorsed on cover: File No. 19,666. Porto Rico D. C. U. S. Term No. 201. Federico Amadeo, for the use of and jointly with The Pastor Marquez Company, in liquidation, plaintiffs in error, vs. The Royal Insurance Company. Filed March 15th, 1905. File No. 19,666.

